

REMARKSClaim Amendments

Claims 2 and 15 have been canceled without prejudice. Claims 1, 3, 4, 10-14, 16-22 have been amended. Accordingly, claims 1, 3-14, and 16-22 are pending.

Specifically, claim 1 has been amended to specify an isolated DNA (i) encoding a protein comprising the amino acid sequence of SEQ ID NO: 3 or (ii) comprising a coding region of the nucleotide sequence of SEQ ID NO: 1 or 2. Support for this amendment can be found throughout the application and claims as originally filed.

Claim 3 has been amended to further specify “a coding region” of the nucleotide sequence of SEQ ID NO:1 or 2. Support for this amendment can be found throughout the application and claims as originally filed, *e.g.*, original claim 1.

Claims 4, 11, 16, 21, and 22 have been amended to provide appropriate claim dependency.

Claim 10 has been amended to further specify that “the propagation material retains a DNA encoding a protein comprising the amino acid sequence of SEQ ID NO:3 in the expressible manner.” Support for this amendment can be found throughout the application and claims as originally filed, *e.g.*, page 11, lines 2-9.

Claim 12 has been amended to specify an isolated protein comprising the amino acid sequence of SEQ ID NO:3. Support for this amendment can be found throughout the application and claims as originally filed.

Claims 13 and 17-20 have been amended to further specify that the protein comprises the amino acid sequence of SEQ ID NO:3. Support for this amendment can be found throughout the application and claims as originally filed, *e.g.*, original claim 1.

Claim 14 has been amended to specify an “isolated” antibody. Support for this amendment can be found throughout the application and claims as originally filed.

The foregoing claim amendments should in no way be construed as acquiescence to any of the Examiner’s rejections and were made solely to expedite prosecution of the application. Applicants reserve the right to pursue claims to the canceled subject matter, or any subject matter which they are entitled to claim, in this or a separate application. No new matter has been added.

Restriction Requirement

The Examiner has restricted the claims to the following groups:

- I. claims 1, 2, 4, 6-11, 15 and 17, drawn to DNA;
- II. claims 3 and 5, drawn to a promoter;
- III. claim 12, drawn to a protein;
- IV. claim 13, drawn to a first method of use of the DNA;
- V. claim 14, drawn to an antibody;
- VI. claims 16 and 21, drawn to a second method of use of the DNA;
- VII. claim 18, drawn to a third method of use of the DNA;
- VIII. claims 18 and 19, drawn to a first method of use of the protein;
- IX. claim 20, drawn to a second method of use of the protein; and
- X. claim 22, drawn to a fourth method of use of the DNA

Specifically, the Examiner states that “[t]he inventions listed as Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features ...” The Examiner further provides the following reasons: (i) the DNA of claim 1(c) reads on any DNA of the prior art; (ii) the DNA of claim 2 reads on a single amino acid; (iii) the propagation material of claim 10 reads on any prior art rice seed; and (iv) the protein of claim 12 is not isolated and, thus, reads on any prior art rice plant.

Responsive to the restriction requirement, Applicants elect Group I (claims 1, 2, 4, 6-11, 15 and 17) drawn to DNA, with traverse to the extent that Group II be rejoined with Group I. Notwithstanding Applicants’ election, Applicants respectfully request reconsideration of the restriction to the extent that Groups I and II be rejoined in light of the foregoing claim amendments. Based on these claim amendments, the Examiner’s reasons for restriction have been rendered moot. That is, (i) the DNA of claim 1 no longer reads on any DNA of the prior art; (ii) claim 2 has been canceled; (iii) the propagation material of claim 10 no longer reads on any prior art rice seed; and (iv) the protein of claim 12 is isolated and, thus, no longer reads on any prior art rice plant. Accordingly, the inventions of Groups I and II share a novel technical feature as represented in the DNA comprising a coding region of the nucleotide sequence of SEQ ID NOs: 1 or 2.

In further support of their request for reconsideration of the restriction requirement, Applicants submit that examination of Groups I and II together in the present application would not place an undue burden on the Examiner, since the prior art searches for these Groups would be co-extensive and, as such, would not require undue burden on the Examiner. As stated in the MPEP:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.
MPEP § 803 . . .

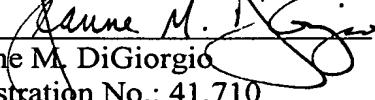
For at least the foregoing reasons, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement to the extent that all of the pending claims of Groups I and II be examined together in the present application. Further, it is Applicants understanding that the withdrawn method claims that depend from or otherwise include all the limitations of any of the product claims which are deemed allowable will be rejoined in accordance with the provisions of MPEP §821.04.

CONCLUSION

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

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Respectfully submitted,

By 
Jeanne M. DiGiorgio
Registration No.: 41,710
LAHIVE & COCKFIELD, LLP
28 State Street
Boston, Massachusetts 02109
(617) 227-7400
(617) 742-4214 (Fax)
Attorney/Agent For Applicant